

## REMARKS

Claims 1-54 currently remain in the application. Claims 2, 3, 10, 13, 23, 32, 41, 47, 48 and 49 are herein amended. Claims 53 and 54 are newly added claims.

In response to the requirement in Paragraph 1 of the Official Letter, the Abstract section has been amended so as to contain less than 150 words.

In response to the requirement in Paragraph 2 of the Official Letter, claim 47 has been amended and is now presented in a different format. Grammatical errors in claims 48 and 49 are also herein corrected.

Claims 1, 5-8, 10, 12, 14, 16-46 and 50-52 were rejected under 35 U.S.C. 102 as being anticipated by Cheng. Rejection of a claim under 35 U.S.C. 102 is justified only when each of the inventive elements in that claim is disclosed in one reference. Applicant respectfully submits that Cheng does not disclose every inventive element in independent claim 1 or 12, and hence it is believed that the Examiner's rejection of claims 1 and 12 and the claims dependent therefrom is not justified and hence should be reversed. Independent claims 23, 32 and 41 have been amended herein at least in part in view of Cheng and hence it is submitted that claims 23, 32 and 41 as well as those claims dependent therefrom are now allowable.

Explained specifically, Cheng discloses neither any means for nor any step of determining a space-position of a deposited seed with reference to any space-fixed coordinate system. Although the Examiner states in page 3 of the Official Letter that Cheng does so, no portion of Cheng is cited for this proposition. Cheng discloses a bi-plane ultrasound transducer for transverse and longitudinal imaging (at [0120]) and acquired two-dimensional images are reconstructed into a three-dimensional volume image by transformation from the

polar coordinates into the Cartesian coordinates (at [0121]). Cheng's z-axis is in the direction of the line connecting the actual needle location and the template coordinate outside the patient body through which the needle is inserted (at [0084]). This means that Cheng's z-axis is not space-fixed, and Cheng's coordinate transformation is a transformation from a polar coordinate system into a Cartesian coordinate system, not a transformation from a space-fixed coordinate system into a body-fixed coordinate system.

The Examiner strenuously argues in the mid-section of page 4 of the Official Letter that Cheng's markers are within the body according to claims 23-52 but this clearly does not make a coordinate system a space-fixed system. Moreover, while an anchoring portion of Cheng's marker may be inside the body (as it may be with Applicant's marker in some embodiments), Cheng nowhere mentions an internal marker. Figure 15 does not show an internal marker but rather discloses a rectal sheath. Also, Applicant notes that the limitation regarding a marker attached to the body is present in some but not all of claims 1 – 22, and the limitation regarding a marker inside the body is in some but not all of claims 23 – 52.

Applicant also notes that Applicant does not concede that any particular portion of Cheng necessarily constitutes prior art to Applicant's invention. Rather only those portions of Cheng that were present in the provisional application to which Cheng claims priority constitute *prima facie* prior art.

Independent claims 23, 32 and 41 are herein amended for introducing the limitation that the positions of the injected seeds are detected with reference to a space-fixed coordinate system. It is therefore believed that the Examiner's rejection thereof as well as the claims dependent therefrom is overcome.

The Examiner's finding of allowable subject matter in claims 2-3, 9, 11, 13, 15, 48

and 49 is gratefully acknowledged. Applicant has re-written claims 2, 3, 10, 13 and 47 in independent form. Additionally, applicant has added new claims 53 and 54. Applicant is of the opinion that the entire application is now in condition for allowance.

Respectfully submitted,



Keiichi Nishimura  
Registration No. 29,093

November 17, 2003  
BEYER WEAVER & THOMAS, LLP  
P.O. Box 778  
Berkeley, CA 94704-0778  
Telephone: (510) 843-6200  
Telefax: (510) 843-6203